

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

=====X
ANGEL CRUZ,

Plaintiff(s),

- against -

THE CITY OF NEW YORK, NEW YORK CITY
POLICE DEPARTMENT, P.O. AROCHO (TAX
REGISTRY # 941863 OR 911863) and JOHN
DOES #1-6,

Defendant(s).

=====X
TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiffs' Attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded herein.

Dated: New York, New York
November 18, 2014


By: Steven Seener, Esq.

SEENER & SEENER
Attorneys for the Plaintiff(s)
Office & P.O. Address
11 PARK PLACE
10TH FLOOR
New York, New York 10007
(212) 766-2050

Defendant(s) address:

1. The City of New York: 100 Church Street, New York, NY 10007.
2. NEW YORK CITY POLICE DEPT. c/o Corp. Counsel 100 Church Street, N Y, N Y 10007
3. P.O. Arocho, Brooklyn, NY.

INDEX NO.
Plaintiff
designates
Kings County
as the place of
trial.
The basis of
venue
is situs of
accident.
**SUMMONS WITH
NOTICE**
Plaintiff
resides at
106 Jamaica Ave.
Jamaica, NY 11418
County of
Queens

Notice: The nature of this action is VIOLATION OF CIVIL RIGHTS; 42 USC 1983 ACTION; FALSE ARREST; TORT; INTENTIONAL TORT; NEGLIGENCE; VIOLATION OF CONSTITUTIONAL RIGHTS (NEW YORK STATE and U.S. CONSTITUTION); UNLAWFUL IMPRISONMENT; AND PERSONAL INJURIES.

The relief sought is monetary damages.

Upon your failure to appear, judgment will be taken against you by default for an amount to be determined by a jury or trier of fact at the time of trial and in an amount which exceeds the jurisdictional limitations of all the lower courts which would otherwise have jurisdiction, together with interest from November 15, 2013, and the costs of this action.

INDEX NUMBER PURCHASED AND SUMMONS AND COMPLAINT FILED:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

=====X

ANGEL CRUZ,

Plaintiff,

INDEX #

COMPLAINT

-against-

THE CITY OF NEW YORK, NEW YORK CITY
POLICE DEPARTMENT, P.O. AROCHO (TAX
REGISTRY # 941863 OR 911863) and JOHN
DOES #1-6,

Defendants.

=====X

AS AND FOR A FIRST CAUSE OF ACTION

1. That at all times hereinafter mentioned, the plaintiff was resident of the County of Queens, City and State of New York.

2. That at all times hereinafter mentioned the defendant, THE CITY OF NEW YORK, was and still is a municipal corporation, duly formed and existing by virtue of the laws of the State of New York.

3. That at all times hereinafter mentioned the defendant, THE NEW YORK CITY POLICE DEPARTMENT, was and still is department of the defendant, THE CITY OF NEW YORK, was duly formed and existing by virtue of the laws of the State of New York.

4. That the plaintiff has complied with all of the conditions precedent to the bringing of this action and more particularly, that a Notice of Claim was served on the defendant, THE CITY OF NEW YORK within 90 days of his arrest and injuries of November 15, 2013 and that a statutory hearing pursuant to Section 50-H of the Municipal

Law was held; and that more than 30 days have elapsed to date from the service of the notice of claim and the plaintiff's claims remain unresolved.

5. This action is also a civil rights action to recover money damages arising out of defendants' violation of plaintiff's rights as secured by the Civil Rights Act, 42 U.S.C. Section 1983, and of rights secured by the First, Fourth and Fourteenth Amendments to the United States Constitution, and the laws of the State of New York and the New York State Constitution.

6. The arrest, search, detainment and prosecution of the plaintiff constituted a deprivation of the plaintiff's constitutional rights; the initial occurrence took place on November 15, 2013 commencing at approximately 11:30 a.m. commencing at the 505 Central Avenue, Brooklyn, New York and continuing at other locations including a police precinct; at that time and place plaintiff, ANGEL CRUZ was falsely arrested, unjustly, falsely imprisoned, manhandled and mistreated by police officers, had his civil rights violated by the defendants, City of New York, New York City Police Dept. and their agents, servants and/or employees, and officers, including defendant, Police Officer Arocho (Tax Registry # 94186302 911 863) and other unknown officers, John Does # 1-6; plaintiff was falsely arrested and/or arrested without probable cause, without reasonable cause, without legal process and without legal justification, manhandled, mistreated, and brutalized by the defendants and/or police officers present; he was thereafter taken into custody and kept and detained in custody of the Police Dept. against his will; he was held by officers of the New York City Police Dept.; plaintiff was held illegally by the police, at a police precinct and other places where he was held by the defendants, City of New York and/or NYC Police Dept., P.O. Arocho and other officers; that as a result he was caused to suffer serious, severe

and injuries, physical injuries, psychological injuries and emotional injuries and special damages;

Moreover, the officers present and the arresting officers were verbally abusive and unprofessional;

Plaintiff was handcuffed; plaintiff was detained; plaintiff was arrested, arrested without a warrant, held and searched without a warrant or probable cause; the plaintiff was held illegally, falsely accused of committing a crime or crimes, and physically abused by the police and illegally handcuffed; the plaintiff was unlawfully stopped, beaten, manhandled and accosted without a warrant or probable cause by the defendants; the plaintiff was stopped and arrested without cause or justification or legal basis in violation of his rights under the New York State and U.S. Constitutions; Plaintiff was subjected to false arrest, unlawful and improper imprisonment, illegal detainment, to torture, unnecessary force, mistreatment, suffered physical injuries and loss of freedom.

Further the police officers and the police department and defendants involved acted under color of law;

the detainment of the Plaintiff was baseless and without lawful basis;

the defendants, City of New York, New York City Police Department, P.O. Arocho and other New York City police officers (John Does #1-6) arrested the plaintiff without probable cause and unlawfully detained and handcuffed him and threw him to the floor, and punched and kicked him, put their feet and knees on his back; the plaintiff's rights were violated, in violation of the Fourth and Fourteenth Amendments to the United States Constitution. Plaintiff was deprived of his constitutional and common law rights and rights under the United States Constitution and New York State Constitution when the individual

defendants unlawfully arrested, stopped, searched, confined plaintiff, brutalized, manhandled , injured plaintiff and caused the unjustifiable arrest of the plaintiff, detention of the plaintiff.

7. The occurrence and events involving the plaintiff herein took place initially on November 15, 2013 at approximately 11:30 A.M. commencing in and/or near 505 Central Avenue, Brooklyn, NY, and continuing into a police vehicle, and a Police Precinct, all in the County of Kings, City and State of New York; the plaintiff was also required to make several appearances in Criminal Court in New York, NY, until the case against him was dismissed.

8. At that time and place plaintiff, ANGEL CRUZ, was falsely arrested, unjustly and falsely imprisoned, had his civil rights violated by the defendants, City of New York, New York City Police Dept., P.O. AROCHO, and other officers, police officers, agents, servants and/or employees of the defendants (other police officers John Does #1-6 being unknown at this time).

9. Plaintiff was falsely arrested and/or arrested without probable cause, without reasonable cause, without legal process and without legal justification; the plaintiff, ANGEL CRUZ, was thereafter taken into custody and kept and detained in custody of the Police Dept. against his will; he was held by officers of the New York City Police Dept.; plaintiff was held illegally by the City of New York and/or NYC Police Dept.

10. That plaintiff, ANGEL CRUZ, was caused to suffer serious, severe emotional injuries, and physical injuries, special damages, loss of freedom, loss of self esteem and he was humiliated and shamed in front of his family and others.

11. That plaintiff, ANGEL CRUZ, was handcuffed and held against his will

without a legal reason and humiliated and embarrassed; he was arrested and charged falsely with crimes; he was in police custody on November 15, 2013 when he was released.

12. Plaintiff, ANGEL CRUZ, was detained; Plaintiff ANGEL CRUZ was arrested, held and searched without a warrant or probable cause; the plaintiff, ANGEL CRUZ, was held illegally, falsely accused of committing a crime and handcuffed; the plaintiff, ANGEL CRUZ, was unlawfully stopped and accosted without a warrant or probable cause.

13. The plaintiff, ANGEL CRUZ, was stopped and arrested without cause or justification or legal basis in violation of his rights under the New York State and U.S. Constitutions. Plaintiff, ANGEL CRUZ, was subjected false arrest, unlawful and improper imprisonment, illegal detainment, and unnecessary force; further the defendants acted under color of law, specifically defendant, P.O. AROCHO and other defendants, John Does #1-6.

14. The detainment of the plaintiff, ANGEL CRUZ, was baseless and illegal.

15. Defendant, P.O. AROCHO was and still is at all times relevant herein an officer, employee, and/or agent of the New York City Police Department and/or the City of New York and was a resident of the State of New York.

16. On the date of incident, November 15, 2013, defendants, P.O. AROCHO and police officers John Does #1-6 were employees of the defendants, New York City Police Department and/or City of New York.

17. Defendants, P.O. Arocho, and New York City Police Officers John Does #1-6 are and were at all times relevant herein officers, employees, and agents of the New York City Police Department.

18. At all times relevant herein, the individual defendants were acting under

color of state law in the course and scope of their duties and functions as agents, servants, employees and officers of the New York City Police Department, and otherwise performed and engaged in conduct incidental to the performance of their lawful functions in the course of their duties; they were acting for and on behalf of the defendants, New York City Police Department and/or City of New York, at all times relevant herein, with the power and authority vested in them as officers, agents and employees of the New York City Police Department and incidental to the lawful pursuit of their duties as officers, employees and agents of the New York City Police Department and/or City of New York.

19. Defendant, City of New York, is a municipal entity created and authorized under the laws of the State of New York. It is authorized by law to maintain a police department which acts as its agent in the area of law enforcement and for which it is ultimately responsible. The defendant, City of New York, assumed the risks incidental to the maintenance of a police force and the employment of police officers as said risks attach to the public consumers of the services provided by the New York City Police Department.

20. That on the above stated date and time defendant P.O. AROCHO and/or other NYC Police Officers John Does 1-6, accosted, stopped, arrested and interrogated plaintiff without probable cause.

21. The defendant police officers then arrested and detained the plaintiff and handcuffed him without probable cause or legal justification.

22. Defendants, P.O. AROCHO, and/or other police officers JOHN DOES 1-6 observed, other officers or defendants violating plaintiff's rights under the Constitutions of the United States and New York State and did nothing to prevent the violation of his Constitutional Rights.

23. Failure to intervene by the individually named defendant police officers caused plaintiff to sustain psychological and emotional trauma.

SECOND CAUSE OF ACTION

Violation of Plaintiff's Fourth Amendment and

Fourteenth Amendment Rights

24. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 23 with the same force and effect as if more fully set forth at length herein.

25. Defendant, P.O. AROCHO and Defendants Police Officers John Does #1-6, who were acting in concert and within the scope of their authority, arrested and caused plaintiff to be imprisoned and violated plaintiff's right to be free of an unreasonable search and seizure under the Fourth Amendment of the Constitution of the United States and to be free of a deprivation of liberty under the Fourteenth Amendment to the Constitution of the United States.

26. Plaintiff suffered emotional injuries and physical injuries as a result of her incarceration.

27. As a result of plaintiff's unlawful search and seizure, amounting to a violation of his civil rights, plaintiff suffered degradation, humiliation, loss of reputation and esteem and various other emotional injuries, as well as economic harm.

THIRD CAUSE OF ACTION

28. Plaintiff reiterates and realleges the facts stated in paragraphs 1 through 27 as if stated fully herein.

29. As a result of their actions, Defendants, acting under "Color of law,"

deprived Plaintiff of his rights to freedom and deprived him of liberty without due process of law in violation of the Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States and 42 U.S.C. 1983.

30. Defendants subjected Plaintiff to these deprivations of his rights either maliciously or by acting with a reckless disregard whatever Plaintiff's rights.

31. As a direct and proximate result of the acts of Defendants, plaintiff suffered psychological and economic injuries, endured great pain and mental suffering, was deprived of his physical liberty.

FOURTH CAUSE OF ACTION

32. Plaintiff reiterates and realleges the facts stated in paragraphs 1 through 31 as if stated fully herein.

33. As a result of their actions, Defendants, acting under "Color of law," deprived Plaintiff of his right to freedom from excessive force without due process of law in violation of the Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States and 42 U.S.C. 1983.

34. Defendants subjected Plaintiff to these deprivations of his rights either maliciously or by acting with a reckless disregard for Plaintiff's civil rights.

35. As a result of the aforesaid occurrence, Plaintiff suffered the damages and injuries aforesaid. All Defendants are liable for said damage and injuries.

FIFTH CAUSE OF ACTION

For Violation of Civil Rights

36. Plaintiff reiterates and realleges the facts stated in paragraphs 1 through 35 as

if stated fully herein.

37. Defendant, City of New York, and Defendant New York City Police Department, through their police Commissioner, as municipal policymakers, in the hiring, training and supervision of the Defendants, have pursued a policy and custom of deliberate indifference to the rights of persons in their domain, and in particular, the Plaintiff, thereby violating Plaintiff's rights to freedom from the use of excessive and unreasonable force and freedom, from deprivation of liberty, and from loss of liberty without due process of law in violation of the Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States and 42 U.S.C. 1983 and 42 U.S.C. 1985.

38. As a direct and proximate result of the aforementioned policy and custom of deliberate indifference of Defendants New York City and New York City Police Department, Defendants committed the unlawful acts referred to above and thus, Defendants New York City and New York City Police Department are liable for the Plaintiff's injuries.

SIXTH CAUSE OF ACTION

Failure to Intervene

39. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 38 with the same force and effect as if more fully set forth at length herein.

40. Defendants had an affirmative duty to intervene on behalf of plaintiff, whose constitutional rights were being violated in the presence of other officers.

41. Defendants failed to intervene to prevent the unlawful conduct described herein.

SEVENTH CAUSE OF ACTION

Negligent Hiring, Retention, Training and Supervision

42. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 41 with the same force and effect as if more fully set forth at length herein.

43. The defendant, City of New York and defendant New York City Police Department and their employees, servants and/or agents acting within the scope of their employment did negligently hire, retain, train and supervise defendants P.O. AROCHO, and Police Officers John Does #1-6, individuals who were unfit for the performance of police duties on November 15, 2013, at the aforementioned location.

EIGHTH CAUSE OF ACTION

INTENTIONAL TORT

44. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 43 with the same force and effect as if more fully set forth at length herein.

45. The defendants, P.O. AROCHO, and police officers John Does # 1-6, are guilty of and liable to the plaintiff for their actions for intentional torts and thereby caused damages to the plaintiff.

NINTH CAUSE OF ACTION

NEGLIGENCE

46. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 45 with the same force and effect as if more fully set forth at length herein.

47. The plaintiff's injuries and damages are the result of the defendants' negligence in the use of force, police procedures, arrests and law enforcement procedures.

TENTH CAUSE OF ACTION

FAILURE TO SUPERVISE OR PROPERLY TRAIN PERSONNEL

48. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 47 with the same force and effect as if more fully set forth at length herein.

49. The injuries and damages sustained by plaintiff were a direct result of the failure of the defendants to properly train police officers.

50. Further, the injuries and damages sustained by plaintiff arose from the defendants' failure to properly supervise police officers and employees.

51. Further, the injuries and damage sustained by plaintiff are a result of the defendants hiring inadequate personnel.

WHEREFORE, plaintiff demands judgment against the defendants on each cause of action in a substantial sum of money which exceeds the jurisdictional limits of all the lower courts that would otherwise have jurisdiction, and which amount will be determined by the jury or trier of fact against the defendants at the time of trial; together with the interest, costs and disbursements herein;

a. Further, that the plaintiff recover the cost of the suit herein, including reasonable attorneys fees pursuant to 42 U.S.C. § 1988.

b. That the plaintiff have such other and further relief as the Court shall deem just and proper.

Dated: New York, New York
November 18, 2014

By:



STEVEN SEENER, ESQ.
SEENER & SEENER, ESQS.

Attorneys for Plaintiff

ANGEL CRUZ

11 Park Place - 10th Floor
New York, New York 10007
Telephone No. 212-766-2050

ATTORNEY'S VERIFICATION

The undersigned, an attorney admitted to practice in the courts of the State of New York, shows that affirmant is a partner in the firm of SEENER AND SEENER, attorneys of record for the defendant(s) in the within action, that affirmant has read the foregoing Complaint and knows the contents thereof; that the same is true to the affirmant's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters affirmant believes it to be true.

Affirmant further says that the reason this verification is made by affirmant and not by said Plaintiff(s) is that Plaintiff(s) are not residents of the County in which affirmant maintains his office.

The grounds of affirmant's belief as to all matters not stated upon affirmant's knowledge are as follows: Document's in affirmant's file.

The undersigned affirms that the foregoing statements are true under the penalties of perjury.

Dated: New York, New York
Nov. 18, 2014



STEVEN SEENER

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

=====X
ANGEL CRUZ,

INDEX #

Plaintiff,

-against-

THE CITY OF NEW YORK, NEW YORK CITY
POLICE DEPARTMENT, P.O. AROCHO (TAX
REGISTRY # 941863 OR 911863) and JOHN
DOES #1-6,

Defendants.
=====X

| _____ |
SUMMONS AND COMPLAINT
| _____ |



SEENER & SEENER, ESQS.
BY: STEVEN SEENER, ESQ.
ATTORNEYS FOR PLAINTIFF
ANGEL CRUZ
11 Park Place - 10th Floor
New York, New York 10007
(212) 766-2050

CERTIFICATION

The foregoing PLEADINGS & PAPERS ARE hereby certified pursuant to 22
N.Y.C.R.R. 1301.1

Dated: New York, New York
November 18, 2014



STEVEN SEENER, ESQ.